

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TINA M. WAMHOFF,)	
)	
Plaintiff,)	
)	
v.)	No. 4:06CV808 TIA
)	
MICHAEL J. ASTRUE,)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Application for Attorney's Fees Under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. The parties consented to the jurisdiction of undersigned pursuant to 28 U.S.C. § 636(c).

On September 21, 2007, the undersigned remanded Plaintiff's case to the Commissioner for further proceedings. Plaintiff now seeks attorney's fees in the amount of \$1,818.85, which represents 11 hours of attorney work at the rate of \$165.35 per hour.¹ In EAJA actions, the district court has the authority to award reasonable and necessary expenses associated with adjudicating a claim for social security benefits. Kelly v. Bowen, 862 F.2d 1333 (8th Cir. 1988).

In the instant case, Defendant initially filed an objection to the amount in Plaintiff's request for an award of attorney's fees, as the amount exceeded the statutory amount of \$125.00 per hour, and Plaintiff's attorney had not submitted justification for the increase. On November 6, 2007, Plaintiff filed an Amended Application for Award of Attorney's Fees, along with an exhibit citing the

¹ Plaintiff's first motion requests attorney's fees for 11 hours at 156.75 per hour. However, after utilizing the Consumer Price Index, Plaintiff amended the request to reflect the 2006 amount of \$165.35.

Consumer Price Index as justification for a cost of living increase in the hourly rate. The Defendant filed a motion to withdraw its objection on November 8, 2007. The undersigned thus finds that Plaintiff is entitled to attorney's fees in the requested amount of \$1818.85. An appropriate Judgment will accompany this Memorandum and Order.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Amended Application for an Award of Attorney's Fees Pursuant to the Equal Access to Justice Act [Doc. #19-1] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's First Application for Award of Attorney's Fees Pursuant to the Equal Access to Justice Act [Doc. #17] is **DENIED** as **MOOT**.

IT IS FINALLY ORDERED that Defendant's Motion to Withdraw its Objection [Doc. #20] is **GRANTED**.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 19th day of November, 2007.

